IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.M.JAMES

TUESDAY, THE 6TH FEBRUARY 2007 / 17TH MAGHA 1928

WP(C).No. 16542 of 2006(T)

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PETITIONER:

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C.U. MATHEW,
CHAKKALAKUDIYIL HOUSE, PALLIKKARA,
KUMARAPURAM P.O., ERNAKULAM DISTRICT.

BY ADV. SRI.P.V.BABY

RESPONDENTS:

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1. ERNAKULAM DISTRICT CO-OPERATIVE BANK LTD
REPRESENTED BY ITS GENERAL MANAGER.

2. THE JOINT REGISTRAR OF CO-OPERATIVE
SOCIETIES (GENERAL), ERNAKULAM.

BY ADV. SRI.P.V.SURENDRANATH SC FOR R1
GOVERNMENT PLEADER SRI.P.K. RAVIKRISHNAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 06/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1- TRUE PHOTOCOPY OF FIRST PAGE AND ANNEXURE V IN THE PROJECT REPORT SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT

EXT.P2- TRUE PHOTOCOPY OF THE REPRESENTATION DATED 20.11.2002 SUBMITTED BY THE PETITIONER TO THE 2ND RESPONDENT IN THE CAPACITY AS ADMINISTRATOR OF THE 1ST RESPONDENT BANK's

EXT.P3- TRUE PHOTOCOPY OF REPRESENTATION DATED 1.1.03 SUBMITTED BY THE petitioner TO THE ADMINISTRATOR OF THE BANK

EXT.P4- TRUE PHOTOCOPY OF REPRESENTATION DATED 11.2.03 SUBMITTED BY THE PETITIONER TO THE CONVENOR OF THE ADMINISTRATIVE COMMITTEE OF THE BANK

EXT.P5- TRUE PHOTOCOPY OF NOTICE DATED 31.1.2003 ISSUED BY THE 1ST RESPONDENT BANK

EXT.P6- TRUE PHOTOCOPY OF REPRESENTATION DATED 22.2.2003 SUBMITTED BY THE PETITIONER TO THE CONVENOR OF THE ADMINISTRATIVE COMMITTEE OF THE BANK

EXT.P7- TRUE PHOTOCOPY OF NOTICE DATED 21.6.2003 ISSUED BY THE BRANCH MANAGER OF THE 1ST RESPONDENT, BANK

EXT.P8- TRUE PHOTOCOPY OF NOTICE DATED 21.6.2003 ISSUED BY THE BRANCH MANAGER OF THE 1ST RESPONDENT BANK

EXT.P9- TRUE PHOTOCOPY OF REPRESENTATION DATED 30.6.2003 SUBMITTED BY THE PETITIONER TO THE BRANCH MANAGER OF THE 1ST RESPONDENT BANK

EXT.P10- TRUE PHOTOCOPY OF NOTICE DATED 24.10.2005 ISSUED BY THE 1ST RESPONDENT BANK

RESPONDENT'S EXHIBITS

EXT.R1(a)- A TRUE COPY OF THE SANCTION LETTER ISSUED BY THE HEAD OFFICE BRANCH OF THE BANK ON 5.11.2001

EXT.R1(b)- A TRUE COPY OF THE SANCTION LETTER DATED 20.6.2002 ISSUED BY THE HEAD OFFICE BRANCH OF THE BANK

EXT.R1(c)- A TRUE COPY OF THE STATEMENT AS TO THE OUTSTANDING LIABILITY AS ON 30.6.2006

EXT.R1(d)- A TRUE COPY OF THE COMMUNICATION SUBMITTED BEFORE THE HONOURABLE MINISTER FOR CO-OPERATION DATED 3.1.2005

EXT.R1(e)- A TRUE COPY OF THE ADALATH NOTICE ISSUED BY THE AUTHORITY DATED 15.6.2006

EXT.R1(f)- A TRUE COPY OF THE RENT DEED DATED 12.4.2006

(TRUE COPY)

P.A TO JUDGE

**J.M.JAMES, J.**

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W.P.(C). 16542/2006 (T)

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Dated this the 6th day of February, 2007

**JUDGMENT**

The writ petitioner had availed a loan from the first respondent, bank. The same had been made use of for the construction of a tourist home. The petitioner had defaulted the payment of instalments. The learned counsel for the first respondent submits that even after the completion of the construction of the building and renting it to the third party, no amount had been remitted towards the instalments, due to the first respondent, bank.

2. The counsel for the writ petitioner submits that he is prepared to pay back the amount within a reasonable time and the One Time Settlement facilities, available under Circular No.59/2006 dated 30.11.2006, may be directed to be extended to the petitioner.

3. The counsel for the first respondent, however, opposes the said plea of the petitioner for One Time Settlement, on the ground that the petitioner is a willful defaulter and the bank is having discretion not to grant One Time Settlement facilities to the loanee, who willfully

defaulted the repayment of the loan.

4. I heard the elaborate arguments advanced by the learned counsel Mr.P.V.Baby for the writ petitioner and Mr.P.V.Surendranath for the first respondent. I had also gone through the counter affidavit filed by the first respondent. After considering the entire matter in detail, I pass the following orders:-

(a). The writ petitioner shall pay an amount of Rs.2,00,000/- (Rupees Two Lakhs) within two weeks from today.

(b). The writ petitioner shall approach the first respondent, bank, with an One Time Settlement application, within the above period of two weeks.

(c). On receipt of an One Time Settlement application, the first respondent shall hear the writ petitioner and fix the amount due to it from him, after granting the facilities and benefits of One Time Settlement scheme available under Circular No.59/2006 dated 30.11.2006. This shall be done within two weeks from the date of receipt of the application for One Time Settlement, from the writ petitioner.

(d). The writ petitioner shall pay another amount of Rs.2,00,000 (Rupees Two Lakhs) within two weeks from the date of payment of the amount, as contained in condition No. (a), above.

(e). On fixing the amount due from the writ petitioner to the first respondent as directed in condition No. (c), above, the petitioner shall pay the entire balance amount due to the first respondent within two months from the date of payment of the second instalment of Rs.2,00,000/- (Rupees Two Lakhs), as stated in condition No.(d) above.

(f). The first respondent shall, while fixing the amount due to it from the writ petitioner, supply the statement of accounts, after the application of the One Time Settlement scheme, to the writ petitioner.

The writ petition is disposed of as above.

**J.M.JAMES**
**JUDGE**

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